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THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 09/649,293  
Applicant : COHEN, LAWRENCE  
Filed : AUGUST 28, 2000  
Title : ELECTRODE ARRAY WITH NON-UNIFORM SPACING

Art Unit : 3762  
Examiner : EVANISKO, GEORGE ROBERT

Atty Docket No. : COCH-0028-UTY

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The below-identified communication(s) is (are) submitted in the above-captioned application or proceeding:

- ☒ Copy of Notice of Improper Request for Continued Examination (RCE) 1 page
- ☒ Response and Amendment in reply to Final Office Action dated 10-22-04 (10 pages)
- ☒ Petition for a Third Month Extension of Time (2 pages)
- ☒ Credit Card Payment Form
  
- ☒ The Commissioner is hereby authorized to charge payment of any fees associated with this communication, including fees under 37 C.F.R. §§ 1.16 and 1.17 or credit any overpayment to **Deposit Account Number 10-0233-COCH-0028-UTY.**

Respectfully submitted,

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Registration Number 35,205

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10363-A Democracy Lane  
Fairfax, Virginia 22030  
(703) 591-2664

April 22, 2005

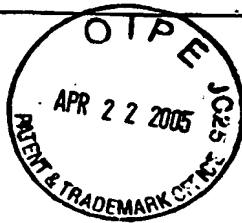


United States Patent and Trademark Office  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NUMBER FILING DATE

FIRST NAMED APPLICANT

ATTY. DOCKET NO./TITLE



DATE MAILED:

## NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)

The request for continued examination (RCE) under 37 CFR 1.114 filed on 3-22-05 is improper for reason(s) indicated below:

- ☐ 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☐ 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☐ 3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
- ☐ 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
- ☐ 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on \_\_\_\_\_. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
- ☐ 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
- ☒ 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

Note: If a request for a continued prosecution application (CPA) under 37 CFR 1.53(d) has been filed in the utility or plant application (including a previously filed CPA) that was filed on or after May 29, 2000, the request for a CPA has been treated as a RCE because the CPA practice no longer applies to such application. The constructive RCE, however, is improper for reason(s) indicated above.

**A copy of this notice MUST be returned with any reply.**

Direct the reply and any questions about this notice to:

Brenda Webb  
(571)

Examining Group

3762

(703) 308-4399  
FORM PTO-2051 (Rev. 3/2001)